



Control Number: 48785



Item Number: 123

Addendum StartPage: 0

CONSOLIDATED SOAH DOCKET NO. 473-19-1265
CONSOLIDATED PUC DOCKET NO. 48785

RECEIVED

2019 FEB -6 PM 2:17

REBUTTAL TESTIMONY
OF WILSON P. PEPPARD, WITNESS FOR
ONCOR ELECTRIC DELIVERY COMPANY LLC & AEP TEXAS INC.

Public Utility Commission
Filing Clerk

TABLE OF CONTENTS

I. PURPOSE OF REBUTTAL TESTIMONY	2
II. OIL AND GAS FACILITIES	2
III. ALLEGATIONS REGARDING ELECTROMAGNETIC FIELDS AND OTHER EFFECTS OF TRANSMISSION LINES	9
IV. REQUESTED ROUTE MODIFICATIONS	11
V. RESPONSE TO TPWD'S COMMENTS AND RECOMMENDATIONS	12
VI. CONCLUSION	20
AFFIDAVIT	21

123
1

1 **REBUTTAL TESTIMONY OF WILSON P. PEPPARD**

2 **I. PURPOSE OF REBUTTAL TESTIMONY**

3 Q. ARE YOU THE SAME WILSON P. PEPPARD WHO SUBMITTED
4 DIRECT TESTIMONY ON BEHALF OF ONCOR ELECTRIC DELIVERY
5 COMPANY LLC ("ONCOR") AND AEP TEXAS INC. ("AEP TEXAS")
6 (ONCOR AND AEP TEXAS TOGETHER, "APPLICANTS") IN THIS
7 DOCKET?

8 A. Yes.

9 Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY FILED IN THIS
10 DOCKET BY INTERVENORS AS WELL AS THE COMMENTS AND
11 RECOMMENDATIONS FILED BY THE TEXAS PARKS AND WILDLIFE
12 DEPARTMENT ("TPWD")?

13 A. Yes.

14 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

15 A. The purpose of my rebuttal testimony is to respond to certain aspects of
16 the testimony filed by intervenors—including COG Operating LLC
17 ("COG"); Occidental Permian Ltd, Oxy Delaware Basin, LLC, Oxy USA,
18 Inc., Oxy USA WTP LP, Houndstooth Resources, LLC, and Occidental
19 West Texas Overthrust, Inc. (together, "Oxy"); Plains Marketing, L.P. and
20 Plains Pipeline, L.P. (together, "Plains"); Forrister Generation-Skipping
21 Trust ("Forrister"); and Alan Zeman ("Zeman")—regarding the Applicants'
22 proposed Sand Lake – Solstice 345 kV Transmission Line Project
23 ("Proposed Transmission Line Project"). I also respond to the comments
24 and recommendations of TPWD. My rebuttal testimony does not address
25 the separate Bakersfield – Solstice 345 kV transmission line project.

26 **II. OIL AND GAS FACILITIES**

27 Q. MULTIPLE INTERVENORS, INCLUDING COG, OXY, AND PLAINS,
28 DISCUSS THE PROXIMITY OR POTENTIAL PROXIMITY OF OIL AND
29 GAS WELLS, PIPELINES AND OTHER INFRASTRUCTURE TO THE
30 RIGHT-OF-WAY ("ROW") FOR THE PROPOSED TRANSMISSION LINE

1 PROJECT. DOES ONCOR HAVE EXPERIENCE IN DEALING WITH OIL
2 AND GAS FACILITIES NEAR TRANSMISSION LINE RIGHTS-OF-WAY?

3 A. Yes. Oncor operates hundreds of miles of transmission lines that run
4 through and near property used for oil and gas exploration, drilling,
5 processing, and transportation, among other activities. In numerous
6 instances, oil and gas wells are drilled and pipelines are installed in
7 locations directly abutting Oncor's existing transmission line easements.

8 Q. HOW ARE TRANSMISSION LINES SITUATED WHEN THEY ARE
9 ROUTED IN CLOSE PROXIMITY TO OIL OR GAS PIPELINES?

10 A. As discussed in my direct testimony, new ROW will be acquired for the
11 Proposed Transmission Line Project. Typically this new ROW will be
12 generally located adjacent to any existing ROW, but will not overlap it
13 unless a crossing is necessary. Oncor attempts to abut its transmission
14 line easements with existing easements when feasible. The easement
15 width typically allows sufficient space between facilities to allow for
16 construction as well as safe operation and maintenance of the Proposed
17 Transmission Line Project.

18 Q. PLAINS EXPRESSES CONCERN REGARDING THE LOCATION OF
19 TRANSMISSION LINE STRUCTURES WITHIN OR NEAR PIPELINE
20 ROW (P. 8). HOW DOES ONCOR RESPOND?

21 A. While the final design of the Proposed Transmission Line Project cannot
22 be completed until detailed ground surveys of the approved route
23 (assuming Commission approval) are performed, Oncor will not locate
24 structures for the Proposed Transmission Line Project within pipeline
25 ROW. Since Oncor has discretion in locating the structures within its
26 ROW, Oncor attempts to locate them a reasonable distance from existing
27 facilities to maximize the safe construction, operation and maintenance of
28 the Proposed Transmission Line Project as well as nearby facilities such
29 as pipelines.

1 Q. PLAINS ALSO REQUESTS THAT THE COMMISSION IMPOSE
2 REQUIREMENTS FOR CROSSING PLAINS' PIPELINES (PP. 8-11).
3 HOW DO APPLICANTS RESPOND?

4 A. Crossing requirements can vary substantially between pipeline companies
5 on a variety of topics such as notice, equipment and vehicles, to name just
6 a few. Transmission service providers ("TSPs") have experience in
7 coordinating such crossings with pipeline operators. To the extent
8 pipeline operators require a written agreement, it constitutes a contractual
9 arrangement between the parties. It is unnecessary for the Commission
10 to involve itself in this process. The Commission has adopted standard
11 ordering paragraphs that deal with TSPs' interactions with pipelines in
12 modeling the alleged effects from alternating current interference with
13 pipeline facilities being paralleled by transmission lines. With respect to
14 pipeline crossings, however, it is customary for TSPs to coordinate
15 crossings directly with pipeline companies. If necessary, TSPs may
16 negotiate crossing agreements that specify the terms and conditions on
17 which the TSP will cross pipeline facilities.

18 Oncor coordinates with pipeline companies as a matter of course
19 when constructing new projects affecting pipeline facilities, and the
20 Proposed Transmission Line Project will be no different. Given the sheer
21 number of pipeline crossings by transmission lines and the historical
22 cooperation between TSPs and pipeline companies in successfully
23 achieving safe crossings, there is no reason for the Commission to involve
24 itself in such issues. Applicants are nevertheless committed to working
25 with Plains in good faith to comply with applicable law and establish
26 mutually-acceptable safe working practices if the Proposed Transmission
27 Line Project crosses Plains' pipeline facilities.

28 Q. OXY EXPRESSES CONCERN THAT ROUTE 320 WOULD BISECT
29 MULTIPLE OXY OIL PRODUCTION AREAS AND CROSS VERY CLOSE
30 TO A LARGE NUMBER OF EXISTING WELLS AND OTHER

1 INFRASTRUCTURE. OXY ALSO NOTED THAT IT IS QUICKLY
2 DEVELOPING ITS OIL AND GAS OPERATIONS IN THE STUDY AREA.
3 HOW ARE UNANTICIPATED OBSTACLES ADDRESSED?

4 A. It is not uncommon for Oncor to encounter unanticipated obstacles during
5 on-the-ground surveys following Commission selection of a route. One
6 example of an unanticipated obstacle could be a recently granted pipeline
7 easement, a recently constructed pipeline facility, or a recently drilled well.
8 This situation is not uncommon in areas of rapid development. As the
9 parties and the Commission know, the Permian Basin and Delaware Basin
10 areas of West Texas are experiencing dynamic growth due to oil and gas
11 related activities. Every day, new wells are being drilled and new
12 pipelines are being built throughout this area. Given the fast pace of
13 development, it is very likely that unanticipated obstacles will be
14 encountered during the post-certification process for the Proposed
15 Transmission Line Project—perhaps several times on a given route.
16 Oncor has substantial experience in working with landowners, oil and gas
17 companies, and state and local authorities to find workable solutions when
18 such situations are encountered.

19 This pace of growth underscores the need for flexibility in refining
20 the route approved by the Commission to accommodate for these types of
21 obstacles encountered in the field following Commission approval. In fact,
22 Oxy and COG both agree that it is reasonable and appropriate to give
23 Applicants the ability to modify the approved route to the minimum extent
24 necessary to avoid engineering constraints encountered during the design
25 and construction of the Proposed Transmission Line Project, consistent
26 with good utility practice. In this particular study area, one approach could
27 be to limit this flexibility to properties that (1) have no habitable structures
28 on them and (2) are primarily used for mineral development. This limited
29 flexibility would help facilitate the timely construction of these facilities
30 while avoiding new construction that will occur by the customers whose

1 growing loads are intended to be served by the Proposed Transmission
2 Line Project.

3 Q. THE DIRECT TESTIMONY OF OXY (P. 5) AND COG (P. 8-9)
4 EXPRESSES CONCERN REGARDING DISTANCES BETWEEN
5 TRANSMISSION LINES AND OIL AND GAS WELL SITES. HOW DOES
6 ONCOR RESPOND?

7 A. While Oncor has historically routed, constructed, and operated
8 transmission lines near oil and gas facilities without a specified set-back,
9 Oncor is willing to work with these companies and surface estate owners
10 to accomplish route modifications to accommodate these desired setbacks
11 when feasible and appropriate. The Proposed Transmission Line Project
12 will be located within an appropriately-sized easement. Applicants do not
13 expect their work inside of this ROW will cause any interference with oil
14 and gas well site operations that occur outside the ROW. Likewise, oil
15 and gas operations outside of this ROW are not expected to interfere with
16 the Proposed Transmission Line Project.

17 Similarly, Oncor designs its transmission line clearances to exceed
18 National Electric Safety Code minimum requirements such that they are
19 generally high enough to allow even heavy equipment such as cranes to
20 safely pass underneath, provided proper safety protocols are followed. As
21 Oxy's testimony mentions, coordination is often necessary, and Oncor
22 remains committed to working with oil and gas companies such as Oxy, in
23 conjunction with surface owners, to accommodate oil and gas activity
24 around the Proposed Transmission Line Project.

25 Q. WHAT IS APPLICANTS' RESPONSE TO CONCERNS, SUCH AS
26 THOSE EXPRESSED BY OXY, COG AND PLAINS, THAT
27 CONSTRUCTION OF THE PROPOSED TRANSMISSION LINE
28 PROJECT IN CLOSE PROXIMITY TO PIPELINES AND OIL AND GAS
29 WELLS IS A POTENTIAL SAFETY HAZARD?

1 A. Given that Applicants will not linearly locate their facilities in the same
2 ROW as a pipeline, and will use its best efforts to avoid inclusion of any
3 wells within its ROW, Applicants does not anticipate any disturbance to
4 existing pipelines or wells during construction, operation or maintenance
5 of the Proposed Transmission Line Project. This is due to both the width
6 of the respective ROWs and the resulting separation that will exist
7 between the facilities, as well as the institutional knowledge and
8 experience that both Oncor, pipeline operators, and oil and gas producers
9 have with owning and operating these facilities in close proximity to each
10 other. Pipelines, wells, and transmission lines have existed adjacent to
11 each other in harmony for decades. With typical spans of approximately
12 1150-1200 feet for the Proposed Transmission Line Project, Oncor is able
13 to traverse long distances between structure locations while determining
14 the optimum location for the placement of its structures in crossing
15 situations. Additionally, Oncor employs numerous safety procedures
16 during construction around pipelines, including contacting the “call before
17 you dig” 811 number, as alluded to in Plains’ testimony.

18 Moreover, the Commission’s recent practice in certificate of
19 convenience and necessity (“CCN”) cases has been to order electric
20 utilities to coordinate with pipeline companies in studying any potential
21 effects transmission lines may have on nearby pipelines. Given these
22 facts, Oncor does not anticipate the Proposed Transmission Line Project
23 will physically disturb existing facilities located within adjacent ROW, and it
24 will attempt to work with affected parties in an effort to adjust the approved
25 route where appropriate.

26 Q. OXY EXPRESSES CONCERN REGARDING OUTAGES THAT MAY BE
27 REQUIRED FOR CONSTRUCTION (PP. 5-6). WHAT TYPES OF
28 ELECTRIC FACILITIES MUST BE DE-ENERGIZED IF THE PROPOSED
29 TRANSMISSION LINE PROJECT IS APPROVED?

1 A. Typically, Oncor will de-energize high-voltage transmission lines crossed
2 by the Proposed Transmission Line Project during construction but will
3 leave distribution facilities energized. However, while not preferred, Oncor
4 has the ability to construct the Proposed Transmission Line Project while
5 both transmission and distribution facilities are energized, if necessary.
6 Specific procedures for de-energizing transmission facilities, if necessary,
7 will be addressed during the construction phase following Commission
8 approval of the Proposed Transmission Line Project and will be
9 coordinated through the Electric Reliability Council of Texas ("ERCOT")
10 clearance process.

11 Q. COG EXPRESSES CONCERN ABOUT POTENTIAL ARCING DURING
12 CONSTRUCTION OF THE PROPOSED TRANSMISSION LINE
13 PROJECT (P. 9). HOW DO APPLICANTS RESPOND TO THIS ISSUE?

14 A. The Proposed Transmission Line Project will not be energized until its
15 construction is complete. Therefore, arcing is unlikely to occur during
16 construction since there will be no energized conductors from which any
17 potential arcing could occur.

18 Q. COG (P. 9) EXPRESSES CONCERN ABOUT ACCESS DURING
19 CONSTRUCTION. HOW DOES ONCOR INTEND TO ADDRESS THIS
20 ISSUE?

21 A. Oncor does not intend to block existing access roads during the
22 construction process.

23 Q. COG EXPRESSES CONCERN REGARDING ITS ABILITY TO CROSS
24 THE EASEMENT FOR THE PROPOSED TRANSMISSION LINE
25 PROJECT (P. 10). WILL PRIOR APPROVAL BE REQUIRED TO CROSS
26 THE EASEMENT?

27 A. No. Applicants do not intend to acquire exclusive rights for the
28 transmission line easements for the Proposed Transmission Line Project.
29 Therefore, Applicants' rights to be acquired are not intended to forbid

1 other property interest holders from ingress and egress across the
2 easement area.

3 Q. SOME INTERVENORS, INCLUDING COG (P. 10) AND OXY (PP. 3-6),
4 EXPRESS CONCERN THAT THE PROPOSED TRANSMISSION LINE
5 PROJECT WOULD HINDER OR PREVENT DEVELOPMENT OF THEIR
6 PROPERTIES FOR OIL AND GAS RELATED PURPOSES. IS THIS
7 ACCURATE?

8 A. No. While oil and gas facilities will be prohibited inside the easement
9 area, direct access to transmission facilities can make a property more
10 attractive for generation or certain types of oil and gas development. As
11 Oncor witness Mr. Brent R. Kawakami explained in his direct testimony
12 and Commission Staff witness Mr. David Bautista affirmed on pages 15-16
13 of his direct testimony, the Proposed Transmission Line Project is needed
14 to, among other things, serve the rapidly increasing load in this area. That
15 load is driven in large part by the needs of oil and gas companies to
16 explore for, produce, process, gather, and transport the oil and gas
17 located in this area. In certain circumstances, these operations need
18 direct service from a transmission line. In that situation, the Proposed
19 Transmission Line Project could facilitate such development on their
20 properties.

21 **III. ALLEGATIONS REGARDING ELECTROMAGNETIC FIELDS**
22 **AND OTHER EFFECTS OF TRANSMISSION LINES**

23 Q. ZEMAN (P. 7) AND FORRISTER (P. 5) EXPRESS GENERAL
24 CONCERNS REGARDING FEAR OF ELECTROMAGNETIC FIELDS
25 ("EMFs") PRODUCED BY TRANSMISSION LINES. HOW DOES
26 ONCOR MITIGATE ANY POTENTIAL EFFECTS OF EMFs PRODUCED
27 BY ITS TRANSMISSION LINES?

28 A. Oncor mitigates the potential effects of EMFs in a number of ways,
29 including by designing its transmission lines in a manner that reduces the

1 strength of EMFs and by complying with the Commission's policy of
2 prudent avoidance.

3 Oncor seeks to minimize any potential effects of EMFs by
4 designing the Proposed Transmission Line Project in a manner that
5 maximizes the cancelling effect of the fields of adjacent phases of the
6 transmission line, thereby reducing the strength of the EMFs. At the edge
7 of the ROW, EMF levels from the Proposed Transmission Line Project will
8 be comparable to common household appliances such as an electric can
9 opener.

10 Potential EMF impacts are also mitigated by the routing of the
11 Proposed Transmission Line Project. Oncor witness Ms. Brenda J.
12 Perkins and Commission Staff witness Mr. Bautista conclude in their direct
13 testimonies that all proposed routes for the Proposed Transmission Line
14 Project comply with the Commission's policy of prudent avoidance, which
15 is defined as "[t]he limiting of exposures to electric and magnetic fields that
16 can be avoided with reasonable investments of money and effort." These
17 facts should alleviate any reasonable concern about EMFs relating to the
18 Proposed Transmission Line Project.

19 Q. ZEMAN (P. 5) AND FORRISTER (P. 5) ALSO CLAIM THE PROPOSED
20 TRANSMISSION LINE PROJECT WILL CAUSE DISRUPTIVE BUZZING
21 NOISES. HOW IS THIS CLAIM ADDRESSED?

22 A. Generally, 345 kV transmission lines do not emit audible noise. Under
23 rare circumstances, such as when large amounts of moisture are in the
24 air, the line may emit a slight humming sound while conditions persist.

25 Q. FORRISTER AND ZEMAN DISCUSS CONCERNS ABOUT ACCESS TO
26 THEIR PRIVATE PROPERTIES. HOW FREQUENTLY DOES ONCOR
27 EXPECT TO HAVE PERSONNEL ON PROPERTIES CROSSED BY THE
28 PROPOSED TRANSMISSION LINE PROJECT FOLLOWING ITS INITIAL
29 CONSTRUCTION?

1 A. Oncor aerially inspects its transmission lines twice a year and performs
2 on-the-ground inspections of its 345 kV lines approximately once every
3 few years. Unless an issue is identified in an aerial inspection that
4 requires further investigation or a storm-related issue occurs, Oncor
5 anticipates its access to the ROW for the Proposed Transmission Line
6 Project will be limited to this instances.

7 **IV. REQUESTED ROUTE MODIFICATIONS**

8 Q. OXY AND COG PROPOSED A NUMBER OF ROUTE MODIFICATIONS
9 IN THEIR DIRECT TESTIMONIES, AS AMENDED, SUPPLEMENTED
10 OR WITHDRAWN BY THEIR CROSS-REBUTTAL TESTIMONIES. HOW
11 DID APPLICANTS EVALUATE THESE PROPOSED MODIFICATIONS?

12 A. Applicants have reviewed aerial imagery, mostly from September 2017, in
13 attempting to determine whether any known engineering constraints would
14 preclude construction of these currently-pending modification requests.
15 However, Applicants have not conducted on-the-ground surveys of these
16 locations, physically accessed these properties, or personally visited the
17 areas where the modifications have been requested in the short number of
18 days since the requests were filed in this docket through Oxy and COG's
19 testimony. Nevertheless, in an effort to accommodate these requests,
20 Applicants' understanding of all of the currently-pending modification
21 requests from Oxy and COG are shown in the exhibits to Mr. Russell J.
22 Marusak's rebuttal testimony on behalf of Applicants. My rebuttal
23 testimony addresses the engineering and cost aspects of these requested
24 modifications. Applicants' witnesses Mr. Marusak and Ms. Brenda J.
25 Perkins also discuss certain aspects of these modification requests in their
26 rebuttal testimonies.

27 Q. PLEASE DISCUSS THE ENGINEERING ASPECTS OF EACH
28 MODIFICATION OXY AND/OR COG CURRENTLY PROPOSE.

29 A. With the limitations noted above, Applicants are not aware of any
30 engineering constraints or construction impediments affecting the

1 currently-proposed route modifications that likely could not be resolved
2 through additional consideration by Applicants during the design and
3 construction phase of the Proposed Transmission Line Project.

4 It is my understanding that Oxy's requested modification to Link D1,
5 as stated in Mr. Albert Mendoza's direct testimony, has been withdrawn as
6 explained in Mr. Mendoza's cross-rebuttal testimony.

7 Q. PLEASE DISCUSS THE ESTIMATED COST IMPACTS OF EACH
8 MODIFICATION OXY AND/OR COG CURRENTLY PROPOSE.

9 A. The estimated cost impacts for each of Oxy's and/or COG's currently-
10 proposed modifications are as follows:

- 11 • Link C2 modification requested by Oxy in its cross-rebuttal testimony
12 (see Exhibit RJM-R-1) – Approximately \$906,000 cost increase
13 primarily due to extra angle and dead-end structures.
- 14 • Links F3/G4/G51/G52 modification requested by Oxy and COG in their
15 cross-rebuttal testimony (see Exhibit RJM-R-2) – No estimated cost
16 change.
- 17 • Links J1/J7 modification requested by Oxy and COG in their cross-
18 rebuttal testimony (see Exhibit RJM-R-3) – Approximately \$600,000
19 cost increase primarily due to increased line length.
- 20 • Links E1/F1 modification requested by Oxy in its direct testimony (see
21 Exhibit RJM-R-4) – Approximately \$180,000 cost decrease primarily
22 due to less angle structures.
- 23 • Link D31 modification requested by COG in its cross-rebuttal testimony
24 (see Exhibit RJM-R-5) – No estimated cost change.
- 25 • Link K11 modification requested by COG in its cross-rebuttal testimony
26 (see Exhibit RJM-R-6) – Approximately \$68,000 cost increase primarily
27 due to an additional angle structure.

28 V. **RESPONSE TO TPWD'S COMMENTS AND**
29 **RECOMMENDATIONS**

30 Q. WHAT IS YOUR ROLE WITH RESPECT TO PERMITTING EFFORTS?

1 A. I am the engineer responsible for directly overseeing Oncor's portion of
2 the Proposed Transmission Line Project. In this role, I oversee activities
3 related to environmental permitting, environmental regulatory agency
4 coordination, and project-specific environmental compliance related to the
5 construction of new transmission lines. Once a project route has been
6 determined, I oversee assessment of the project ROW for threatened and
7 endangered species and their habitat, storm water pollution prevention
8 plan ("SWPPP") permitting requirements, U.S. Army Corps of Engineers
9 permitting requirements, potential cultural resource impacts, and any other
10 environmental permits that might be required.

11 Q. TPWD MAKES VARIOUS RECOMMENDATIONS REGARDING
12 ENVIRONMENTAL ASSESSMENTS AND PERMITTING. PLEASE
13 DESCRIBE THE ENVIRONMENTAL-RELATED PERMITTING
14 ACTIVITIES ONCOR UNDERTAKES WHEN CONSTRUCTING A NEW
15 TRANSMISSION LINE.

16 A. After a transmission line route has been selected and approved by the
17 Commission, qualified experts conduct an assessment of the entire length
18 of the project to identify water resources, cultural resources, potential
19 migratory bird issues, and threatened/endangered species habitat that
20 may be impacted as a result of the transmission line project. Preliminary
21 siting of storm water controls are identified during this process. As a result
22 of these assessments, Oncor identifies which permits are necessary,
23 obtains all required environmental permits, and facilitates compliance with
24 the relevant permit conditions during construction and operation of the
25 transmission line. Oncor has implemented these processes successfully
26 over many years and in numerous projects. These processes are, and will
27 continue to be, Oncor's standard practice.

28 Q. THE TPWD LETTER CONTAINS VARIOUS COMMENTS REGARDING
29 COMPLIANCE WITH ENVIRONMENTAL REGULATIONS. WHAT IS
30 ONCOR'S PHILOSOPHY REGARDING COMPLIANCE WITH

1 ENVIRONMENTAL REGULATIONS?

2 A. Oncor takes regulatory compliance very seriously and is an industry
3 leader in the field. If Oncor identifies that it has committed a violation of
4 an environmental regulation, it is standard practice to self-report the
5 violation to the appropriate regulatory authority. Oncor also participates in
6 and, in some cases, leads various federal and state initiatives associated
7 with environmental issues.

8 Q. DOES ONCOR HAVE ANY GENERAL COMMENTS REGARDING THE
9 TPWD LETTER?

10 A. Yes. Oncor understands and respects TPWD's mission to protect the
11 State's parks and wildlife for the citizens of Texas. Some of the
12 recommendations made in the TPWD comment letter are already part of
13 the normal post-certification construction process. Other
14 recommendations, however, are either not necessary, not operationally
15 practical, or do not take into consideration all factors set forth in Public
16 Utility Regulatory Act ("PURA") § 37.056 and 16 Texas Administrative
17 Code ("TAC") § 25.101.

18 Q. ON PAGE 6 OF THE TPWD LETTER, TPWD RECOMMENDS CERTAIN
19 TYPES OF SEDIMENT CONTROL FENCES TO EXCLUDE WILDLIFE
20 FROM THE CONSTRUCTION AREA, COVERING AND RAMPS FOR
21 OPEN TRENCHES OR EXCAVATION AREAS, AND USE OF
22 PARTICULAR MATERIALS TO STABILIZE SOILS AND/OR RE-
23 VEGETATE. DOES ONCOR AGREE WITH THESE RECOMMENDED
24 PRACTICES?

25 A. Generally yes. Oncor's typical practices include installation of
26 construction fencing where needed and use of soil stabilization materials
27 where appropriate. Open trenches or excavation areas are not expected
28 during construction, but holes for drilled foundations are covered to the
29 extent necessary.

30 Q. ON PAGE 7 OF THE TPWD LETTER, TPWD RECOMMENDS

1 COVERING ENERGIZED COMPONENTS WITH APPROPRIATE BIRD
2 PROTECTION MATERIALS AND USE LINE MARKERS IN THE
3 VICINITY OF WATER FEATURES TO REDUCE POTENTIAL
4 COLLISIONS BY BIRDS FLYING. DOES ONCOR AGREE WITH THESE
5 RECOMMENDATIONS?

6 A. Oncor employs the use of bird flight diverters and bird perching deterrents
7 in certain areas as appropriate. This may include areas where a high
8 presence of certain avian species is observed. TPWD also generally
9 recommends that Oncor follow certain published guidelines which the
10 Commission has typically included in its ordering paragraphs when
11 approving CCN applications and which Commission Staff witness Mr.
12 Bautista recommends adoption of on pages 12-14 of his direct testimony.

13 Q. ON PAGES 7-8 OF THE TPWD LETTER, THE TPWD RECOMMENDS
14 REFRAINING FROM VEGETATION CLEARING ACTIVITIES
15 GENERALLY FROM MARCH 15 THROUGH SEPTEMBER 15 TO AVOID
16 IMPACTS TO NESTING MIGRATORY BIRDS OR, IF SUCH ACTIVITIES
17 ARE UNAVOIDABLE DURING THOSE MONTHS, TO SURVEY FOR
18 NESTS AND ENSURE OCCUPIED NESTS ARE NOT DISTURBED
19 UNTIL EGGS HAVE HATCHED AND THE YOUNG BIRDS HAVE
20 FLEDGED. DOES ONCOR AGREE WITH THESE
21 RECOMMENDATIONS?

22 A. Based on the estimated schedule for the Proposed Transmission Line
23 Project contained in the CCN Application, clearing during the general bird
24 nesting season from mid-March through mid-September will likely be
25 unavoidable; therefore, Oncor will use best practices to minimize its
26 impact on nesting species encountered during ROW clearing and will
27 avoid these species to the extent possible. As part of Oncor's pre-
28 construction activities, biologists assess the presence of avian species
29 and their habitat in the ROW. Oncor currently utilizes the services of
30 Rogers Wildlife Rehabilitation Center and other permitted agencies to

1 ensure compliance with the Migratory Bird Treaty Act ("MBTA"). Oncor
2 staff biologists will coordinate the relocation of bird species when their
3 nests are impacted by utility construction activities that cannot be avoided.
4 In an effort to comply with aspects of the MBTA, Oncor has relocated eggs
5 and/or young nesting birds to the Rogers Wildlife Rehabilitation Center in
6 Hutchins, Texas where they are cared for and eventually released back
7 into the wild.

8 Q. ON PAGES 8-9 OF THE TPWD LETTER, TPWD RECOMMENDS PRE-
9 CONSTRUCTION SURVEYING OF THE APPROVED ROUTE FOR THE
10 FEDERALLY-LISTED PECOS SUNFLOWER. HOW DOES ONCOR
11 RESPOND TO THESE RECOMMENDATIONS?

12 A. Oncor biologists or consultants working under their direction will assess
13 the Commission-approved route for federally-listed threatened and
14 endangered species and their habitat. If a listed species or its habitat is
15 found on the approved route, Oncor will strive to avoid the take of habitat
16 by making minor adjustments during construction, in coordination with
17 affected landowners where applicable. If habitat avoidance is not
18 possible, Oncor will comply with all aspects of Endangered Species Act
19 ("ESA") including conducting presence/absence surveys as appropriate
20 and consulting with the U.S. Fish and Wildlife Service to obtain permit
21 coverage for incidental take if required. With respect to the Pecos
22 sunflower, Oncor holds a Section 10 ESA Permit and an associated
23 Habitat Conservation Plan which already governs the process for this
24 species.

25 Q. ON PAGES 9-13 OF THE TPWD LETTER, TPWD RECOMMENDS
26 AVOIDING DISTURBANCE TO STATE-LISTED THREATENED AND/OR
27 ENDANGERED SPECIES, INCLUDING THE TEXAS HORNED LIZARD,
28 PECOS PUPFISH, PROSERPINE SHINER, AND TRANS-PECOS
29 BLACK-HEADED SNAKE. HOW DOES ONCOR RESPOND TO THESE
30 RECOMMENDATIONS?

- 1 A. Oncor intends to comply with all applicable regulatory requirements in
2 constructing the Proposed Transmission Line Project. Oncor currently has
3 a process in place to manage impacts to federally-listed threatened and
4 endangered species during construction and, if appropriate, Oncor utilizes
5 permitted biological monitors to ensure compliance with the Endangered
6 Species Act ("ESA"). Although Oncor is not currently required to conduct
7 species-specific surveys for, or use a biological monitor for identification
8 of, state-listed species, Oncor will, if required by the Commission, expend
9 the resources necessary to follow the TPWD recommendations that the
10 Commission adopts. However, Oncor believes the Commission's typical
11 ordering paragraphs will be sufficient to protect natural resources,
12 including these state-listed species.
- 13 Q. ON PAGE 12 OF THE TPWD LETTER, TPWD RECOMMENDS
14 AVOIDING MULTIPLE CROSSINGS OF, OR PARALLELING OF,
15 WATERWAYS. HOW DOES ONCOR RESPOND?
- 16 A. Due to the location of this project's endpoints being on opposite sides of
17 the Pecos River, all of the proposed routes contain at least one crossing of
18 the Pecos River. Oncor will take measures to minimize impacts to the
19 aquatic and riparian habitats.
- 20 Q. HOW DOES ONCOR RESPOND TO THE TPWD'S
21 RECOMMENDATIONS ON PAGE 12 OF THE TPWD LETTER
22 REGARDING SPANNING OF ALL WATERWAYS IN THE STUDY AREA?
- 23 A. Oncor will attempt to span water bodies where feasible. However, if the
24 Proposed Transmission Line Project is approved and the route selected
25 crosses a water body in excess of the maximum span length between
26 transmission structures, then intermediate structures may need to be
27 placed within the water body. These determinations will be made on a
28 case-by-case basis during the design and construction phase following
29 approval of the Proposed Transmission Line Project. Oncor expects to be

1 able to span the Pecos River crossing necessary for the Proposed
2 Transmission Line Project.

3 Q. ON PAGE 12 OF THE TPWD LETTER, THE TPWD RECOMMENDS
4 THAT ONCOR IMPLEMENT BEST MANAGEMENT PRACTICES (“BMP”)
5 TO PREVENT EROSION AND SEDIMENTATION OF WATERWAYS.
6 DOES ONCOR AGREE WITH THIS RECOMMENDATION?

7 A. It is Oncor’s standard practice to operate in compliance with the Texas
8 Commission on Environmental Quality’s (“TCEQ”) Texas Pollutant
9 Discharge Elimination System (“TPDES”) General Permit No. TXR150000,
10 which regulates construction sites that have the potential to discharge
11 storm water. This general permit requires, among other things, the
12 minimization of erosion and sediment discharges as well as the
13 implementation of BMPs as appropriate.

14 Q. ON PAGES 13-18 OF THE TPWD LETTER, TPWD MAKES CERTAIN
15 RECOMMENDATIONS FOR “RARE” PLANT AND ANIMAL SPECIES,
16 INCLUDING THE BLACK-TAILED PRAIRIE DOG, WESTERN
17 BURROWING OWL, FOUR BAT SPECIES, AND THE SPOT-TAILED
18 EARLESS LIZARD. DOES ONCOR AGREE WITH THESE
19 RECOMMENDATIONS?

20 A. Oncor intends to comply with all applicable regulatory requirements in
21 constructing the Proposed Transmission Line Project. Oncor is not aware
22 of any state regulatory requirements pertaining to the “rare” plant and
23 animal species identified in TPWD’s comment letter.

24 Q. ON PAGE 18 OF THE TPWD LETTER, TPWD RECOMMENDS THAT
25 ONCOR MONITOR THE ESA LISTING STATUS OF, AND HAVE
26 BIOLOGICAL MONITORS PRESENT DURING CONSTRUCTION TO
27 TRY TO RELOCATE, THE SPOT-TAILED EARLESS LIZARD. DOES
28 ONCOR AGREE WITH THIS RECOMMENDATION?

29 A. Oncor continually monitors the ESA listing status of a number of species
30 within Texas. If the spot-tailed earless lizard becomes listed as

1 threatened or endangered by the U.S. Fish and Wildlife Service prior to
2 the completion of construction for this Proposed Transmission Line
3 Project, Oncor will comply with all aspects of the ESA pertaining to this
4 species. Although Oncor is not currently required to use a biological
5 monitor for identification of the spot-tailed earless lizard during
6 construction, Oncor will, if required by the Commission, expend the
7 resources necessary to monitor for this species during clearing and
8 construction activities for the Proposed Transmission Line Project.

9 Q. ON PAGES 11-14 OF COMMISSION STAFF WITNESS MR.
10 BAUTISTA'S DIRECT TESTIMONY IN THIS DOCKET, HE RELATES
11 COMMISSION STAFF'S VIEWS OF TPWD'S RECOMMENDATIONS.
12 DO YOU AGREE WITH HIS TESTIMONY?

13 A. Yes. Mr. Bautista recommends that the standard mitigation measures be
14 included in the Order for this CCN application to address the concerns
15 raised by TPWD. Mr. Bautista also states on page 8 of his testimony that
16 Applicants have the resources and procedures in place to accommodate
17 the mitigation recommendations made by TPWD. As explained previously
18 in my testimony, Oncor will, if required by the Commission, comply with
19 any measures designed to mitigate the impact of the Proposed
20 Transmission Line Project on sensitive animal species and their habitats
21 as well as minimize the amount of flora and fauna disturbed during
22 construction of the transmission line. The standard mitigation
23 requirements described by Mr. Bautista in his testimony, coupled with
24 Oncor's current practices described herein, are reasonable measures for a
25 utility to undertake when constructing a transmission line.

26 Q. PLEASE SUMMARIZE ONCOR'S RESPONSE TO THE TPWD LETTER.

27 A. As previously stated, Oncor understands and respects TPWD's mission to
28 protect the State's parks and wildlife for the citizens of Texas and has
29 already incorporated many of TPWD's recommendations into its post-
30 certification construction process. Notwithstanding, some of the additional

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

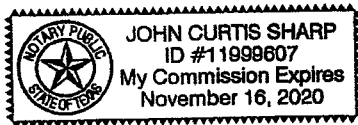
BEFORE ME, the undersigned authority, on this day personally appeared Wilson P. Peppard who, having been placed under oath by me, did depose as follows:

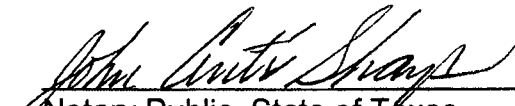
My name is Wilson P. Peppard. I am of legal age and a resident of the State of Texas. The foregoing testimony and exhibit offered by me are true and correct, and the opinions stated therein are, to the best of my knowledge and belief, accurate, true and correct.



Wilson P. Peppard

SUBSCRIBED AND SWORN TO BEFORE ME on this 5 day of February, 2019.





Notary Public, State of Texas

My Commission Expires

November 16, 2020

SOAH Docket No. 473-19-1265
PUC Docket No. 48785

Peppard – Rebuttal
Oncor & AEP Texas
Sand Lake – Solstice CCN